

1 I was working at KALW. So, I was aware of these moves
2 because I was part of all of them.

3 Q Would it be appropriate for me to infer
4 from what you said that you created this from memory?

5 A As far as the various moves go? Yes, I
6 would say that I was able to create this from memory
7 as far as when the earthquake happened, what happened
8 right after the earthquake, what happened when we
9 moved it from one location to the other.

10 Q Now, you can take your time on this, but
11 was there anything that you've stated in EB Exhibit 28
12 which -- or excuse me -- SFUSD Exhibit No. 9. Was
13 there anything that you've stated in SFUSD Exhibit No.
14 9 that you had to research or acquire that information
15 from another source other than yourself?

16 A One moment. Can I take one moment again
17 to --

18 JUDGE SIPPEL: Yes. Let's go off the
19 record.

20 (Whereupon, the above-entitled matter went
21 off the record at 4:48 p.m. and resumed at 4:49 p.m.)

22 THE WITNESS: I can't see anything. The

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1 question was did I need to research anything?

2 MR. SHOOK: Right.

3 THE WITNESS: From looking at this, I
4 don't believe I needed to -- I can't see anything on
5 this document I would have had to have researched
6 before putting it in -- before writing it.

7 MR. SHOOK: All right. I would like to
8 direct your attention now to SFUSD Exhibit 21.

9 (Whereupon, the above-entitled matter went
10 off the record at 4:52 p.m. and resumed at 5:06 p.m.)

11 MR. SHOOK: Mr. Helgeson, did you receive
12 SFUSD Exhibit 21 on or about April 3, 2001?

13 THE WITNESS: In preparing for the
14 hearings today, I was able to see this email and yes,
15 I do remember seeing this coming from Ernie and to
16 David Campos and cc'ing me and Nicole and Jackie
17 Wright.

18 BY MR. SHOOK:

19 Q I'm not sure that you actually answered my
20 question.

21 A I'm sorry.

22 Q Did you receive SFUSD Exhibit 21 on or

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1 about April 3, 2001?

2 A On April 3. It was sent on April 3 late
3 in the day, so I may have seen it on the 3rd on the 4th.
4 Yes.

5 Q Now, what office hours did you normally
6 keep?

7 A I keep generally 8:00 to 4:00. Something
8 like -- around there sometimes. Not a hard and fast
9 time I left work. But that would have been a normal
10 time. Maybe 4:30 sometimes.

11 Q All right. So if you had left at 4:30
12 that day, you're saying you would have left before
13 this email arrived?

14 A Like I say, I don't recall if I saw it on
15 that date or if I saw it the next day when I checked
16 my email.

17 Q So you would have seen this either April
18 3 or April 4?

19 A I would say that's accurate. That's an
20 accurate -- yes.

21 Q Did you read it when you received it?

22 A I've been -- I don't have at this time --

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1 I don't recall how much time I spent reviewing it, if
2 I even reviewed it -- at this time. I knew it was
3 coming from Ernie.

4 I knew that Ernie had prepared it based on
5 information he'd -- Ernie had gotten from me and
6 primarily from me and from Nicole and what information
7 he knew already from being on the case. So I probably
8 didn't review it very well at all, if at all.

9 Q Wasn't this the most important item on
10 your plate that day?

11 A I would say definitely it was an important
12 document. Yes.

13 Q But you're saying you didn't read it
14 thoroughly?

15 A I don't recall that I read it thoroughly
16 at that time when it came in. I would have come from
17 the conclusion that Ernie would only have been putting
18 in things regarding -- with information that he had --
19 regarding public file matters -- questions regarding
20 public file -- what he knew already or -- and what he
21 had -- information he'd gotten from me and from
22 Nicole.

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1 Q Did you understand that this was a draft
2 response of the letter that was going to go to the
3 FCC?

4 A Yes, I understood that. Yes. That's why
5 he was preparing it.

6 Q Did you review the draft response for
7 accuracy?

8 A At the time, I don't recall how much I
9 checked it for accuracy. Again, I assumed that he
10 would only put in information that I had told him
11 about or he'd received from Nicole. So I don't -- or
12 information he had already.

13 Q Well, let me ask you about a couple parts
14 of the letter and then we can go from there. SFUSD
15 Exhibit 21, Page 2 -- I will read to you the paragraph
16 that I have in mind and then ask you a question or two
17 about it.

18 JUDGE SIPPEL: Now this is the document
19 that you just got finished reading?

20 MR. SHOOK: Yes, so that's --

21 JUDGE SIPPEL: All right.

22 MR. SHOOK: That's why I think I can --

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1 JUDGE SIPPEL: Okay.

2 MR. SHOOK: -- read this --

3 JUDGE SIPPEL: Okay. Yes. Go ahead.

4 MR. SHOOK: -- first.

5 JUDGE SIPPEL: I just wanted to make that
6 clear. Go ahead.

7 MR. SHOOK: "SFUSD requests that the
8 commission recall (as SFUSD reported at the time) that
9 San Francisco's Loma Prieta earthquake in September,
10 1989 almost entirely destroyed KALW's studio and
11 offices.

12 Budget constraints on the school board
13 prevented SFUSD from being able to repair or construct
14 new facilities for KALW immediately. As a result, it
15 was not until" -- and then there is an underline with
16 a blank area -- "1997 that KALW was finally moved to
17 its present and permanent location at 500 Mansell
18 Street.

19 During the interim period, the KALW
20 facilities were located in a variety of temporary
21 headquarters including the basketball's court of a
22 high school gymnasium and a former locker room.

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1 All its files, including its Public
2 Inspection Files, were stored and transported in
3 cardboard file boxes from and to each successive
4 location.

5 Since settling in the Mansell Street
6 location, KALW's management has attempted to ascertain
7 what was missing from the files and to restore them to
8 the appropriate condition in compliance with the
9 commission's rules."

10 Now, having read that paragraph to you, I
11 take it you noted from my reading that there was a
12 piece of information that was not filled in at the
13 time and that is as a result, it was until blank 1997
14 that KALW was finally moved to its present and
15 permanent location at 500 Mansell Street.

16 Did you note that at the time as something
17 that you needed to supply information to the attorneys
18 about?

19 THE WITNESS: It seemed they needed that
20 information. I don't know that I was the one who told
21 them or contacted them with the date of when exactly
22 and they knew it was early in '97, end of '96.

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1 So -- but I don't recall if I was the one
2 who actually contacted them with whatever the correct
3 information was. Although, I guess I could have been
4 the one. Yes.

5 BY MR. SHOOK:

6 Q You don't recall supplying them with the
7 information to make that statement complete and
8 accurate?

9 A I don't know if I would have -- phone
10 conversation or email. Just that it was January 1,
11 1997 -- end of Christmas of '96.

12 Q Now, the very last sentence of the
13 paragraph: "Since settling in the Mansell Street
14 location, KALW's management has attempted to ascertain
15 what was missing from the files and to restore them to
16 the appropriate condition in compliance with the
17 commission's rules." Is that a piece of information
18 you had related to Mr. Sanchez or Ms. Jenkins?

19 A I think they ascertained that information
20 from the phone conversations and about what they knew
21 that I had been doing and I had been doing and Nicole
22 had been doing, relating to the public file since

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1 February when the FCC letter came in.

2 Q Okay. I think your answer had -- you may
3 have misunderstood what I was asking, where I was
4 coming from here. The reference in this paragraph
5 would suggest that moving to the Mansell Street
6 location took place in blank 1997.

7 So, we're not talking at this point about
8 what you may have been doing in 2001. The sentence --
9 let me read it again.

10 "Since settling in the Mansell Street
11 location, KALW's management has attempted to ascertain
12 what was missing from the files and to restore them to
13 the appropriate condition in compliance with the
14 commission's rules." Was that information that you
15 had supplied to the attorneys?

16 A Regarding what was going on in 1997, they
17 would have had that -- I could only believe that they
18 had that information from conversations and
19 communications they had with Jeff Ramirez in his
20 preparing to do the 1997 license renewal documents.

21 They had that information from -- I can
22 only assume they had it from Jeff since I have no idea

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1 -- again, as I've stated, I was aware of Jeff working
2 on the public file in 1997.

3 Q Now that sentence that I just read to you:
4 "Since settling in the Mansell Street location," etc -
5 - was that sentence accurate?

6 A Since settling in the -- since I was under
7 the impression that's what -- had always been
8 operating under the impression, since 1997 when Jeff
9 was there, that he was -- been working on the Public
10 File and had certified it.

11 I know that he had certified it in '97 in
12 the documentation. He told me he did. So that was my
13 -- so by that, I would say that it was a correct
14 statement.

15 Q Now, do you recall that we, ad nauseum or
16 at least at length, went over your January, 1998
17 declaration and the famous or infamous Paragraph 4,
18 which talked about that you had assisted -- you had
19 been aware of and had assisted Mr. Ramirez since his
20 arrival with updating and maintaining the public file
21 in accordance with the rules? Do you recall that
22 declaration?

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1 A Yes. I still recall it.

2 Q Now, correct me if I'm wrong, but Mr.
3 Ramirez arrived in August of 1996 and the Mansell
4 Street move didn't take place until either December
5 '96 or January '97. Right?

6 A That's approximate. Yes.

7 Q Okay. So, now in terms of KALW management
8 attempting to ascertain what was missing from the
9 files and restore them to the appropriate condition,
10 did that effort begin when Mr. Ramirez arrived as
11 general manager or did that effort begin after you
12 moved to the Mansell Street location?

13 A It happened certainly -- I would say that
14 in the time from Jeff -- when Jeff arrived in mid 1996
15 -- at that point, his time was very much, I'm sure,
16 taken up by the whole building a new radio station and
17 overseeing the relocation of KALW from the gym to the
18 Mansell Street.

19 Certainly, and as I've said before, he was
20 much more involved with public file and that was much
21 more on his plate when he was involved with making
22 sure the file was up-to-date when he was preparing the

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1 documents -- the 1997 documents for license renewal.

2 It might be a little bit of confusing --
3 it's probably confusing the way that sentence read.
4 I want to say to since Jeffrey -- since the arrival of
5 Jeff Ramirez and I didn't want to -- maybe I didn't
6 want to imply that, say, since Day One, when he
7 arrived, but since he arrived, I was aware of his
8 efforts.

9 That was my intention when signing the
10 declaration with that sentence in it.

11 Q Well, I'm just trying to figure out when
12 the effort to ascertain what was missing from the
13 files and restore them to the appropriate condition in
14 compliance with the commission's rules -- when did
15 that begin?

16 A I just have -- I really don't know the
17 answer to that one, other than I just went on the
18 assumption -- my belief that Jeff Ramirez was doing
19 that and knew what the FCC's requirements were.

20 Q Okay.

21 A He was satisfied to the extent that he was
22 able to certify that when he sent in and prepared the

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1 documents for the license renewal.

2 Q So in response to my question did you tell
3 anybody whether that sentence was accurate or
4 inaccurate -- I guess the answer to that is no? You
5 didn't say anything to anybody about that sentence?

6 A At that time, I did not say anything to
7 anybody about that sentence being -- regarding its
8 accuracy.

9 Q Now, at or around the time of SFUSD
10 Exhibit 21, did you speak with Mr. Ramirez to
11 determine whether he agreed with what was in SFUSD
12 Exhibit 21? Did you make him aware of SFUSD Exhibit
13 21?

14 A At the time of this coming out on April --
15 seeing -- when this came on April 3, I don't recall
16 ever -- I don't recall speaking or contacting Jeff.

17 Q Now according to the first page of SFUSD
18 Exhibit 21, the letter was directed -- or the email --
19 whatever it was -- email, I guess -- was directed to
20 Mr. Campos and a number of cc's including yourself,
21 Jackie Wright and Nicole Sawaya.

22 Did you speak with Nicole Sawaya about the

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1 draft response to the commission's letter of inquiry?

2 A I have no recollection of any comment or
3 conversation she and I had upon getting it.

4 Q Now, in terms of -- I'm going to read to
5 you again a portion of this draft. What I'm reading
6 from is SFUSD Exhibit 21, Page 2, following No. 1
7 where it says ownership/supplemental reports inquiry:

8 "On August 1, 1997, when the subject
9 license renewal application was filed, did the KALW FM
10 public inspection files contain all of the ownership
11 and supplemental reports required to be kept by then
12 Section 73.3527?"

13 Response: "Yes. On August 1, 1997, the
14 KALW public inspection file contained all of the
15 ownership reports. SFUSD and the present management
16 of KALW FM believed all required supplemental reports
17 were, in fact, present in the Public Inspection File
18 on August 1, 1997.

19 However, KALW is unable to prove that one
20 particular supplemental report, which is believed to
21 have been placed in the file in January, 1995, was, in
22 fact, present in the file on August 1, 1997."

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1 Are you the source of the information for
2 the wording that follows "response" where it says
3 "yes" and then etc? Are you the source of the
4 information?

5 A I don't recall that I was the source of
6 that information. The source of that information was
7 -- my source of information regarding the ownership
8 reports as of August 1, '97 was Jeff Ramirez stating
9 that it was.

10 I didn't have any -- and I took his word
11 for it. That's what I always had operated from the
12 mindset that Jeff had certified it, so it must have
13 been right.

14 Q So in other words, the sentence that reads
15 "SFUSD and the present management of KALW believe that
16 all required supplemental reports were, in fact,
17 present in the public inspection file on August 1,
18 1997," the reference there to present management of
19 KALW FM includes you?

20 A I don't know if that's what Ernie Sanchez
21 implied by saying present management.

22 Q Well what did you understand it to mean?

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1 A Present management was certainly Nicole
2 Sawaya as general manager and probably -- and I
3 assumed he probably meant me as well. Yes. But I'm
4 not certain about that.

5 Q So you had told Mr. Sanchez or Ms. Jenkins
6 that you believed that all required supplemental
7 reports had been present in the public inspection file
8 on August 1, 1997?

9 A No, I don't recall telling them that at
10 all. I believe that they knew from what they knew
11 about the status of the file in August '97 was what
12 Jeff Ramirez had certified to and that they knew about
13 it -- status of the ownership reports in 1997. It was
14 based on what Jeff had certified to and informed them
15 of during -- in that time.

16 That's what that was the basis for -- that
17 was the basis for that statement. Not my own personal
18 inspection or certifying of the -- that file in 1997.
19 I hadn't done any independent review of the file in
20 '97.

21 Q You were aware, though, that the '95
22 supplemental report bore a date of December 10, 1997?

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1 A Yes, I do recall that and I've seen that
2 document.

3 Q Now, referring to Page 3 of SFUSD Exhibit
4 21, the paragraph that I'm looking at begins on Page
5 2. The particular sentence that I'm interested in is
6 -- or sentences rather -- begin at the top of Page 3
7 and read as follows:

8 "Several supplemental reports were also
9 placed in the public inspection file during the
10 interim period to account for changes at SFUSD's
11 governing board as a result of elections.

12 SFUSD is governed by the San Francisco
13 Board of Education, which consists of seven elected
14 members and an appointed Superintendent of Schools.
15 The school board election is held every other year, at
16 which time one half of the board, either three or four
17 members, is up for election.

18 The elections are held in November of
19 evenly numbered years with new and reelected board
20 members taking office when the board holds its first
21 meeting the following January.

22 Thus, supplemental reports identifying new

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1 board members for the interim years of 1991, 1993 and
2 1995 should have been in the file on August 1, 1997."
3 Were you the source of the information for that?

4 A Again, I don't recall if I was the source
5 -- I don't believe I would have been the source of the
6 information regarding what was in the public file on
7 August 1, 1997.

8 This -- he's saying that this is what --
9 I think he's saying in that last sentence there --
10 let's see -- what does he say here? He was explaining
11 when ownership reports are done and says thus,
12 supplemental --

13 It says that they should have been in the
14 file on that date. Since Jeff -- we went by 2001,
15 when this document was being created -- we were going
16 on Jeffrey Ramirez's assertion and certification in
17 August of '97 that they were there.

18 Q I understand that this is something you
19 want to make very clear to us and so you've repeated
20 it several times. But in the course of doing that,
21 you have not yet answered my question, which was
22 nothing more than were you the source of the

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1 information for the sentences that I just read out
2 loud to you?

3 A I don't recall being the source of that
4 information for Mr. Sanchez in him putting together
5 his response.

6 JUDGE SIPPEL: The fact that you don't
7 recall though -- you could very well have been?
8 There's nothing in there- You didn't say yes to that
9 answer. You answered yes to that question.

10 THE WITNESS: Your Honor, I don't remember
11 being the source of that information. It appears
12 since it was about -- what was and isn't -- what was
13 and what was the status of the file in 1997 that this
14 question seems to be answering -- I don't -- my only
15 source of knowledge of that -- the status of that file
16 in 1997 was Jeffrey Ramirez certifying that it was --
17 that the Supplemental Ownership Reports were there.

18 JUDGE SIPPEL: So you're saying that you
19 would not be a source of information to Mr. Sanchez or
20 to anybody else to make that statement?

21 THE WITNESS: I believe Jeffrey -- I don't --
22 since I wasn't certifying the status -- the condition

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1 of that part of the public file in 1997, I don't
2 believe I could have been the one who gave him that
3 information.

4 JUDGE SIPPEL: The only thing --

5 THE WITNESS: Mr. Sanchez -- I'm sorry.
6 I'm sorry.

7 JUDGE SIPPEL: Go ahead.

8 THE WITNESS: I was going to say that Mr.
9 Sanchez was our -- was the attorney who was on our
10 case the entire time. So I believe he would have
11 known that information from 1997.

12 JUDGE SIPPEL: Well, I know what you're
13 believing. I know what you're suggesting. I know
14 what you're inferring. I'm simply saying as a fact
15 matter, as of April 3, 2001, where there is
16 represented -- the language that Mr. Shook read to you
17 -- could you have been a source for that information?
18 I would say a source.

19 THE WITNESS: Since I -- by that time, I
20 had been -- yes, Your Honor, I could have been a
21 source, since at that time I certainly had been
22 looking in the Public File in 2001 and so I could have

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1 been a source for information regarding that answer.

2 MR. DUNCAN: I think the next two
3 sentences in the letter, Your Honor, indicate the
4 source of the information.

5 MR. SHOOK: I was going to ask about the
6 next two sentences. I just hadn't gotten there yet.

7 JUDGE SIPPEL: Go ahead.

8 MR. SHOOK: Let me read to you the next
9 two sentences, which are the start of the following
10 paragraph:

11 "At the time of KALW's 1997 renewal, Mr.
12 Jeff Ramirez, the then general manager of the station,
13 certified that all required supplemental reports were
14 present in the file. SFUSD and KALW's present
15 management have no reason to disbelieve Mr. Ramirez's
16 certification."

17 Were you the source of that information?
18 This is a draft --

19 THE WITNESSYes.

20 BY MR. SHOOK

21 Q Excuse me.

22 A This --

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1 Q Excuse me. This is a draft letter that is
2 being prepared in April of 2001. So it's now three
3 and a half years, almost four years, since the
4 certification that appeared in the renewal
5 application.

6 So with that in mind, those two sentences
7 that I read to you -- were you the source of the
8 information for Mr. Sanchez to make -- to write the
9 sentences as he did?

10 A I don't recall. I don't know if I was the
11 source of that information. If he had asked me about
12 -- in the course of preparing these answers, he had
13 asked me about 1997, I would have -- and he would have
14 known since he was around in KALW's -- taking care of
15 KALW's legal matters in 1997.

16 He would already have known that
17 information from that time and from the other
18 responses regarding the license challenge. So it
19 wouldn't have surprised me if I had read that -- if I
20 could recall reading that.

21 I mean 2001 -- I'm thinking gee, where did
22 -- it would have been clear to me that he would have

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1 known that already.

2 Q Now, in terms of the second sentence of
3 what I read to you -- "SFUSD and KALW's present
4 management have no reason to disbelieve Mr. Ramirez's
5 certification" -- you understand, don't you, that
6 that's referring to something -- a state of mind as of
7 April 3, 2001?

8 A Right. Yes, I do understand that.

9 Q Now, did you tell Mr. Sanchez at that
10 point that you had no reason to disbelieve Mr.
11 Ramirez's certification?

12 A Regarding -- if he had asked me about --
13 in 2001, if we had had a conversation regarding 1997,
14 I would have said Jeff said it was okay, so that's
15 what I would have believed. And that's what I would
16 have been telling Mr. Sanchez.

17 Q Do you recall having done so?

18 A In our conversation -- I don't recall
19 specifically that comment -- making that comment to
20 him. I may have made that comment to him or to Susan
21 Jenkins in preparation -- in their preparation for
22 this document.

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1 Q By this time, do you know whether anyone
2 had asked Jeffrey Ramirez whether his -- whether he
3 thought his certification had covered Supplemental
4 Ownership Reports?

5 A I don't recall asking -- like I stated, I
6 didn't contact Jeff Ramirez during this period in
7 2001. I don't know if Ernie Sanchez or Susan Jenkins
8 contacted him.

9 Q I want to direct your attention to Page 4
10 of the draft and to speed things along, I'll read what
11 I'm interested in.

12 "Two. Issues/Programs List, First
13 Inquiry. On August 1, 1997, did the KALW FM public
14 inspection file contain all of the issues/programs
15 lists required by then Section 73.3527?"

16 Response: "Yes. SFUSD and the present
17 management of KALW believe that its public inspection
18 files, as of August 1, 1997, contained all of the
19 issues/programs lists for the entire period in
20 question.

21 Mr. Ramirez, who reviewed the contents of
22 the file in July and August, 1997, in conjunction with

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1 preparation of KALW's license renewal form, so
2 certified at the time. Neither KALW's present
3 management nor SFUSD has any reason to disbelieve that
4 certification."

5 Were you the source of the information for
6 that draft response?

7 A As I've said in the previous question, I
8 don't recall specifically telling Ernie that and --

9 Q Well this is -- just so you understand.
10 This is a little different. We're moving from section
11 to section.

12 A Right.

13 Q So, it may be that you don't remember
14 telling him something with respect to a part of the
15 letter that I read to you earlier.

16 A Yes.

17 Q But in terms of this part of the letter --

18 A Yes?

19 Q Do you remember being the source of the
20 information?

21 A I told him that regarding the status of
22 the Public File in 1997 that what I knew was that Jeff

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